

Introduced by Senator Alarcon

February 24, 2006

An act to amend Section ~~18015~~ of 41781.3 of, and to add Section 41781.4 to, the Public Resources Code, and to repeal Section 1 of Chapter 978 of the Statutes of 1996, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 1778, as amended, Alarcon. Solid waste: ~~beverage containers alternative daily cover; compost.~~

(1) ~~Existing law require rigid plastic bottles and rigid plastic containers be labeled with a code indicating its polymeric composition. Existing law makes it a crime to manufacture for use a rigid plastic container or bottles that is not labeled in accordance with existing law.~~

~~This bill would add a designation of "8" or "PLA" to indicate that the plastic bottle or container is made of polylactic acid. By adding a new category of plastic composition to be labeled, this bill would create a new crime, thereby imposing a state-mandated local program.~~

(1) The existing California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, establishes an integrated waste management program. Under existing law, the act requires each city, county, city and county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan containing specified components.

On and after January 1, 2000, the element is required to divert 50% of the solid waste subject to the element, from landfill disposal or

transformation through source reduction, recycling, and composting activities, except as specified. Existing law provides that the use of solid waste for beneficial reuse in the construction and operation of a solid waste landfill, including use of alternative daily cover, is diversion and not disposal for purposes of that requirement.

This bill would instead require that if the alternative daily cover is comprised of woody and green material, as the bill would define that term, that material not to be considered as being diverted and to be included in the amount of solid waste that is subject to disposal for purposes of the diversion requirements of the act, thereby imposing a state-mandated local program by imposing new duties upon local agencies.

The bill would require the board to develop a schedule for excluding solid waste that is used as an alternative daily cover and comprised of woody and green material from being included in meeting the diversion requirements of the act. The bill would require the board, on or before January 1, 2010, to adopt or revise regulations that establish conditions for the use of alternative daily cover, as specified.

The bill would require the board to establish a market development credit adjustment factor, that would enable a jurisdiction to adjust its diversion rate by adding a diversion point, or a part of a diversion point, to its diversion rate for the purchase of compost. The bill would require the board to establish a schedule to credit a jurisdiction with a diversion rate adjustment based on the number of tons of compost used by a jurisdiction in a reporting year, as specified.

The bill also would repeal legislative findings pertaining to diversion, landfill cover materials, and green materials.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) Californians create nearly 2,900 pounds, or one and*
4 *one-half tons, of household garbage and industrial waste each*
5 *and every second, which is a total of 45 million tons of waste per*
6 *year.*

7 *(b) Until recently, the only place to put that trash was in local*
8 *landfills. Today, however, waste and its byproducts are being*
9 *recycled into more useful products.*

10 *(c) At the present time, the amount of green materials*
11 *generated in California is in excess of the quantity that existing*
12 *markets can absorb. It is thus in the interests of the state to*
13 *encourage the expansion of markets for green materials.*

14 *(d) It is the intent of the Legislature that the California*
15 *Integrated Waste Management Board, and other state agencies,*
16 *continue their efforts to promote the expansion of compost and*
17 *other markets.*

18 *SEC. 2. Section 41781.3 of the Public Resources Code is*
19 *amended to read:*

20 41781.3. (a) (1) The use of solid waste for beneficial reuse
21 in the construction and operation of a solid waste landfill,
22 including the use of alternative daily cover, ~~which~~ *that is not*
23 *comprised of woody and green material and that reduces or*
24 *eliminates the amount of solid waste being disposed pursuant to,*
25 *for purposes of Section 40124, shall constitute diversion through*
26 *recycling and shall not be considered disposal for the purposes of*
27 *this division.*

28 ~~(b) Prior to December 31, 1997, pursuant to the board's~~
29 ~~authority to adopt rules and regulations pursuant to Section~~
30 ~~40502, the board shall, by regulation,~~

31 (2) *If the alternative daily cover is comprised of woody and*
32 *green material, that material shall not be considered as being*
33 *diverted, as defined in Section 40124, and shall be included in*
34 *determining the amount of solid waste that is subject to disposal*
35 *for purposes of this division, in accordance with a schedule*
36 *adopted pursuant to subdivision (b).*

37 (b) *The board shall adopt a schedule for excluding solid waste*
38 *that is used as an alternative daily cover and is comprised of*

1 *woody and green material from being included in meeting the*
2 *diversion requirements of this division.*

3 *(c) On or before January 1, 2010, the board shall adopt or*
4 *revise regulations that establish conditions for the use of*
5 *alternative daily cover that are consistent with this division. In*
6 *adopting or revising the regulations, the board shall consider, but*
7 *is not limited to, all of the following criteria:*

8 *(1) Those conditions established in past policies adopted by*
9 *the board affecting the use of alternative daily cover.*

10 *(2) Those conditions necessary to provide for the continued*
11 *economic development, economic viability, and employment*
12 *opportunities provided by the composting industry in the state.*

13 *(3) Those performance standards and limitations on maximum*
14 *functional thickness necessary to ensure protection of public*
15 *health and safety consistent with state minimum standards.*

16 ~~*(e) Until the adoption of additional regulations, the use of*~~
17 ~~*alternative daily cover shall be governed by the conditions*~~
18 ~~*established by the board in its existing regulations set forth in*~~
19 ~~*paragraph (3) of subdivision (b) of, and paragraph (3) of*~~
20 ~~*subdivision (c) of, Section 18813 of Title 14 of the California*~~
21 ~~*Code of Regulations, as those sections read on the effective date*~~
22 ~~*of this section, and by the conditions established in the board's*~~
23 ~~*policy adopted on January 25, 1995.*~~

24 *(d) In adopting rules and regulations pursuant to this section,*
25 *Section 40124, and this division, including, but not limited to,*
26 *Part 2 (commencing with Section 40900), the board shall provide*
27 *guidance to local enforcement agencies on any conditions and*
28 *restrictions on the utilization of alternative daily cover so as to*
29 *ensure proper enforcement of those rules and regulations.*

30 *(e) For the purposes of this section, "woody and green*
31 *material" means plant material that is either separated at the*
32 *point of generation or separated at a centralized facility that*
33 *employs methods to minimize contamination. Woody and green*
34 *material includes, but is not limited to, yard trimmings, untreated*
35 *wood waste, paper products, and natural fiber products. Woody*
36 *and green material does not include treated wood waste, mixed*
37 *demolition or mixed construction debris, or manure and plant*
38 *waste from the food processing industry, alone or blended with*
39 *soil. Woody and green material may include varying proportions*
40 *of wood waste from urban and other sources.*

1 SEC. 3. Section 41781.4 is added to the Public Resources
2 Code, to read:

3 41781.4. The board shall adopt regulations to establish a
4 market development credit adjustment factor. The market
5 development credit shall enable a jurisdiction to adjust its
6 diversion rate by adding diversion points, or a part of a diversion
7 point, to its diversion rate for the purchase of compost. The
8 board shall establish a schedule to credit a jurisdiction with a
9 diversion rate adjustment based on the number of tons of
10 compost used by a jurisdiction in a reporting year. In developing
11 the schedule, the board shall consider, among other things,
12 whether the compost is locally produced.

13 SEC. 4. Section 1 of Chapter 978 of the Statutes of 1996 is
14 repealed.

15 SECTION 1. ~~(a) The Legislature hereby finds and declares~~
16 ~~all of the following:~~

17 ~~(1) The diversion of solid waste from disposal at solid waste~~
18 ~~landfills and the application of landfill cover materials are~~
19 ~~matters of statewide concern and provisions governing those~~
20 ~~activities must be applied in a uniform and consistent manner~~
21 ~~throughout the state.~~

22 ~~(2) On January 25, 1995, the California Integrated Waste~~
23 ~~Management Board adopted a policy regarding the use of~~
24 ~~alternative daily cover at solid waste landfills and subsequently~~
25 ~~adopted implementing regulations that were approved by the~~
26 ~~Office of Administrative Law.~~

27 ~~(3) In Natural Resources Defense Council vs. California~~
28 ~~Integrated Waste Management Board, the trial court's opinion~~
29 ~~interpreted the meaning of various provisions of the California~~
30 ~~Integrated Waste Management Act of 1989 and, in its~~
31 ~~construction of provisions pertaining to alternative daily cover~~
32 ~~and diversion at solid waste landfills, misinterpreted legislative~~
33 ~~intent.~~

34 ~~(4) The board's policy, as adopted on January 25, 1995, and~~
35 ~~the implementing regulations, regarding the use of alternative~~
36 ~~daily cover at solid waste landfills are consistent with applicable~~
37 ~~statutes.~~

38 ~~(5) It is necessary to amend applicable provisions of the act of~~
39 ~~1989 to clarify existing law so as to clearly express the legislative~~
40 ~~intent and to remove any uncertainty as to the authority of the~~

1 board to adopt the implementing regulations specified in
2 paragraph (4):

3 (6) It is necessary to amend provisions of the act of 1989 to
4 clarify the intent of existing law that the diversion of solid waste
5 from solid waste disposal is diversion under the act of 1989 for
6 purposes of meeting the requirements of Sections 41780,
7 41780.1, 41780.2, and 41781 of the Public Resources Code, as
8 distinguished from diversion of solid waste from a solid waste
9 disposal facility.

10 (b) (1) The Legislature further finds and declares that, at the
11 present time, the amount of green materials generated in
12 California is in excess of the quantity that existing markets can
13 absorb. It is thus in the interests of the state to encourage the
14 expansion of markets for green materials.

15 (2) It is the intent of the Legislature that the California
16 Integrated Waste Management Board, and other state agencies,
17 continue their efforts to promote the expansion of compost and
18 other markets for green materials, including, but not limited to,
19 the compost market program activities specified in Chapter 5
20 (commencing with Section 42230) of Part 3 of Division 30 of the
21 Public Resources Code.

22 *SEC. 5. No reimbursement is required by this act pursuant to*
23 *Section 6 of Article XIII B of the California Constitution because*
24 *a local agency or school district has the authority to levy service*
25 *charges, fees, or assessments sufficient to pay for the program or*
26 *level of service mandated by this act, within the meaning of*
27 *Section 17556 of the Government Code.*

28 **SECTION 1.** Section 18015 of the Public Resources Code is
29 amended to read:

30 18015. (a) All rigid plastic bottles and rigid plastic containers
31 sold in California on and after January 1, 1992, shall be labeled
32 with a code which indicates the resin used to produce the rigid
33 plastic bottle or rigid plastic container. Rigid plastic bottles or
34 rigid plastic containers with labels and basecups of a different
35 material shall be coded by their basic material. The code shall
36 consist of a number placed inside a triangle, and letters placed
37 below the triangle. The triangle shall be equilateral, formed by
38 three arrows with the apex of each point of the triangle at the
39 midpoint of each arrow, rounded with a short radius. The pointer
40 (arrowhead) of each arrow shall be at the midpoint of each side

1 of the triangle with a short gap separating the pointer from the
2 base of the adjacent arrow. The triangle, formed by the three
3 arrows curved at their midpoints shall depict a clockwise path
4 around the code number. The numbers and letters used shall be
5 as follows:

6 1 = PETE (polyethylene terephthalate)

7 2 = HDPE (high density polyethylene)

8 3 = V (vinyl)

9 4 = LDPE (low density polyethylene)

10 5 = PP (polypropylene)

11 6 = PS (polystyrene)

12 7 = OTHER (includes multilayer)

13 8 = PLA (polylactic acid)

14 (b) A “7” shall appear below the resin abbreviation when the
15 bottle or container is composed of more than one layer of that
16 resin.

17 (c) On and after January 1, 1989, the Division of Recycling of
18 the Department of Conservation shall maintain a list of
19 abbreviations used on labels pursuant to subdivision (a) and shall
20 provide a copy of that list to any person upon request.

21 SEC. 2. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the
26 penalty for a crime or infraction, within the meaning of Section
27 17556 of the Government Code, or changes the definition of a
28 crime within the meaning of Section 6 of Article XIII B of the
29 California Constitution.